

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
U.S. MAGISTRATE JUDGE
EL PASO DIVISION

UNITED STATES OF AMERICA) No. EP:23-CR-01842-DB
vs.) El Paso, Texas
RENE HERNANDEZ CORDERO)
) August 25, 2023

PRELIMINARY HEARING

Before the Honorable Robert Castaneda
United States Magistrate Judge

Proceedings reported by stenotype. Transcript produced by
computer-aided transcription.

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A P P E A R A N C E S

FOR THE GOVERNMENT:

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1 THE COURT: We'll call Cause No. EP:23-2665, the
2 United States of America versus Rene Hernandez Cordero.

3 Announcements, please.

4 MR. MYERS: Kyle Myers for the Government.

5 MR. ORTIZ: Good morning, Your Honor. Ruben Ortiz for
6 Mr. Cordero

7 THE COURT: Thank you.

8 Call your witness.

9 MR. MYERS: The Government calls Mark Cervantes.

10 THE COURT: Do you swear to tell the truth, the whole
11 truth and nothing but the truth, so help you God?

12 OFFICER CERVANTES: I do.

13 MR. MYERS: Your Honor, may I proceed?

14 THE COURT: Yes, sir.

15 MR. MYERS: Good morning, sir.

16 OFFICER CERVANTES: Good morning.

17 MR. MYERS: Please state your name for the record.

18 OFFICER CERVANTES: My name is Mark Cervantes.

19 MR. MYERS: Are you employed?

20 OFFICER CERVANTES: Yes.

21 MR. MYERS: Mr. Cervantes, where do you work?

22 OFFICER CERVANTES: I am a task force officer with the
23 Federal Bureau of Investigation here in El Paso, Texas.

24 MR. MYERS: By what parent agency are you employed?

25 OFFICER CERVANTES: My parent agency is United States

1 Customs and Border Protection also in El Paso, Texas.

2 MR. MYERS: How long have you been with Customs and
3 Border Protection?

4 OFFICER CERVANTES: 19 years.

5 MR. MYERS: How long have you been a task force
6 officer with the FBI?

7 OFFICER CERVANTES: A little over four years.

8 MR. MYERS: As a task force officer with the FBI, what
9 are your duties? What does your work entail?

10 OFFICER CERVANTES: I am assigned to the organized
11 drug enforcement task force here in El Paso, Texas. We
12 investigate financial crimes, drug trafficking, firearms
13 trafficking.

14 MR. MYERS: Are you involved in the investigation of
15 the United States versus Rene Hernandez Cordero?

16 OFFICER CERVANTES: Yes, I am.

17 MR. MYERS: How are you so involved?

18 OFFICER CERVANTES: I participated in the arrest.

19 MR. MYERS: Do you see Mr. Hernandez in the courtroom
20 today?

21 OFFICER CERVANTES: Yes, I do.

22 MR. MYERS: Can you please identify him by an article
23 of clothing?

24 OFFICER CERVANTES: By an article of clothing, he is
25 wearing a blue jumpsuit. He is also wearing a headset, and he

1 is located at the first table to my left, and he has a
2 mustache.

3 MR. MYERS: Your Honor, may the record reflect the
4 witness identified Defendant No. 2, Mr. Hernandez?

5 THE COURT: Yes, sir.

6 MR. MYERS: There is also a codefendant in this case,
7 but he hasn't been called; is that correct?

8 OFFICER CERVANTES: That's correct.

9 MR. MYERS: Who is the codefendant in the case?

10 OFFICER CERVANTES: The codefendant is seated directly
11 behind Mr. Hernandez, Mr. Jesus Gerardo Ramos.

12 MR. MYERS: Your Honor, may the record also reflect
13 the witness identified Mr. Ramos as well?

14 THE COURT: Sure.

15 MR. MYERS: Taking a step back.

16 This case involved an undercover operation; is that
17 correct?

18 OFFICER CERVANTES: Yes.

19 MR. MYERS: Basically, can you give an overview to the
20 Court of what the undercover operation was about?

21 OFFICER CERVANTES: The undercover operation consisted
22 of individuals willing to or seeking to purchase multiple
23 firearms from this undercover agent here in El Paso, Texas.

24 MR. MYERS: The person that was identified as speaking
25 with the undercover agent, I guess she was known by the

1 undercover agent as Fernanda?

2 OFFICER CERVANTES: That's correct.

3 MR. MYERS: You have dealt with a person you believed
4 to be Fernanda before, correct?

5 OFFICER CERVANTES: Yes.

6 MR. MYERS: And have you seized any drugs or had any
7 other investigative links to drugs with Fernanda?

8 OFFICER CERVANTES: Yes.

9 MR. MYERS: What was seized?

10 OFFICER CERVANTES: Methamphetamine.

11 MR. MYERS: Over 500 grams?

12 OFFICER CERVANTES: Yes.

13 MR. MYERS: Did that seizure occur here with the
14 Western District of Texas?

15 OFFICER CERVANTES: Yes.

16 MR. MYERS: The defendants here today, did they
17 knowingly or to your knowledge have anything to do with those
18 drugs, correct?

19 OFFICER CERVANTES: Correct.

20 MR. MYERS: This time around [unintelligible] reaching
21 out to an undercover agent, this is about what?

22 OFFICER CERVANTES: Firearms.

23 MR. MYERS: Where is Fernanda located?

24 OFFICER CERVANTES: We believe Fernanda is located in
25 Guadalajara, Mexico; Jalisco.

1 MR. MYERS: To your knowledge, is Fernanda connected
2 to any cartel?

3 OFFICER CERVANTES: Yes.

4 MR. MYERS: Which cartel?

5 OFFICER CERVANTES: The CJMG cartel.

6 MR. MYERS: When she was speaking with the undercover
7 agent, do you have a [unintelligible] trace on Fernanda's
8 phone?

9 OFFICER CERVANTES: We do.

10 MR. MYERS: What is a pin track trace?

11 OFFICER CERVANTES: It is a function with a WhatsApp
12 application where we are receiving phone numbers that go in and
13 out between the source number, which in this case would be
14 Fernanda's. We are privileged with phone numbers and times and
15 dates of those particular phone numbers that are directed
16 towards the source number or being outsourced from the source
17 number.

18 MR. MYERS: You know the phone associated with
19 Fernanda, you know over WhatsApp who is calling her and who she
20 is calling back?

21 OFFICER CERVANTES: Correct.

22 MR. MYERS: Does Fernanda and the undercover agent
23 have several phone calls during the month of August?

24 OFFICER CERVANTES: Yes.

25 MR. MYERS: August 2023?

1 OFFICER CERVANTES: Yes.

2 MR. MYERS: Can you please describe the nature of the
3 phone calls for the Court?

4 OFFICER CERVANTES: The phone calls consist of
5 negotiating prices and/or selection of various firearms to
6 include belt fed rifles, belt fed machineguns, AK-47s,
7 grenades, or manzanas, which was mentioned during the
8 conversations, and also .50 caliber rifles.

9 MR. MYERS: Ultimately, who was the undercover agent
10 pretending to be?

11 OFFICER CERVANTES: A weapons trafficker.

12 MR. MYERS: The undercover agent and Fernanda have a
13 discussion about which weapons she potentially wants to buy.

14 Was there ever a deal actually settled upon?

15 OFFICER CERVANTES: Yes.

16 MR. MYERS: What is the deal for?

17 OFFICER CERVANTES: The deal is for 20 AK-47 rifles
18 and two .50 caliber barreled rifles.

19 MR. MYERS: Where is the transfer of these weapons
20 going to take place?

21 OFFICER CERVANTES: The transfer will be taking place
22 in El Paso.

23 MR. MYERS: Within the Western District of Texas?

24 OFFICER CERVANTES: Yes.

25 MR. MYERS: When the ATF sets up the undercover

1 operation, do they use actual firearms?

2 OFFICER CERVANTES: Yes.

3 MR. MYERS: Has an ATF examiner looked at those
4 firearms?

5 OFFICER CERVANTES: Yes.

6 MR. MYERS: Were they manufactured in the State of
7 Texas?

8 OFFICER CERVANTES: No.

9 MR. MYERS: Did the ATF determine whether they
10 affected interstate traffic?

11 OFFICER CERVANTES: Yes; in August of this year.

12 MR. MYERS: Was there a determination these weapons
13 would have affected interstate or foreign commerce?

14 OFFICER CERVANTES: Yes.

15 MR. MYERS: How much is the undercover agent supposed
16 to sell the weapons for?

17 OFFICER CERVANTES: A total of \$66,000.

18 MR. MYERS: Prior to August 21, 2023, does Fernanda
19 send a down payment?

20 OFFICER CERVANTES: Yes.

21 MR. MYERS: What does she send?

22 OFFICER CERVANTES: \$3,000.

23 MR. MYERS: How is that money received? Is that money
24 received here in the Western District of Texas?

25 OFFICER CERVANTES: Yes.

1 MR. MYERS: And how is that money so received?

2 OFFICER CERVANTES: Western Union.

3 MR. MYERS: On August 21, 2023, is that the date the
4 deal is supposed to take place?

5 OFFICER CERVANTES: August 21, 2023.

6 MR. MYERS: Thank you.

7 This Fernanda is going to come pickup the weapons herself?

8 OFFICER CERVANTES: No.

9 MR. MYERS: What deal has she brokered with the
10 undercover agent?

11 OFFICER CERVANTES: The deal was for the \$66,000 for
12 20 AK-47 assault rifles and two .50 caliber rifles.

13 MR. MYERS: How was she going to give the money and
14 receive the weapons?

15 OFFICER CERVANTES: She was going to task individuals
16 to recover the weapons in exchange for the currency she would
17 be sending.

18 MR. MYERS: On the day of the alleged exchange, does
19 Fernanda provide a phone number?

20 OFFICER CERVANTES: Yes.

21 MR. MYERS: Whose phone number does she provide?

22 OFFICER CERVANTES: The phone number belonged to
23 Mr. Hernandez.

24 MR. MYERS: At the time you received the phone number,
25 I guess you didn't know who it belongs to, correct?

1 OFFICER CERVANTES: The time that we received the
2 phone number, no.

3 MR. MYERS: Do you have to do some research on the
4 phone number?

5 OFFICER CERVANTES: Yes.

6 MR. MYERS: When you researched the phone number, what
7 did you find out?

8 OFFICER CERVANTES: I found out the phone number was
9 consistent with communication with Fernanda on the prior
10 WhatsApp register, and the current WhatsApp pin, and that we
11 were up. In doing research in that phone number, we found out
12 it belonged to Mr. Hernandez.

13 MR. MYERS: You now have a name associated with this
14 phone number.

15 What did you do next?

16 OFFICER CERVANTES: We then conduct research on the
17 particular individual assigned to that phone number, and we
18 discovered there was some information within United States
19 Customs and Border Protection databases that Mr. Hernandez was
20 a former municipal police officer and he was under
21 investigation by the ATF.

22 There was another information that requested that Mr.
23 Hernandez's laser visa would be revoked by the State
24 Department.

25 MR. MYERS: Let's talk about this information with the

1 ATF.

2 He popped up from an investigation from 2012?

3 OFFICER CERVANTES: Yes.

4 MR. MYERS: His name a [unintelligible] debrief?

5 OFFICER CERVANTES: Yes.

6 MR. MYERS: Can you please kind of briefly describe
7 what kind of information was in the debrief?

8 OFFICER CERVANTES: The information contained there
9 was he had individuals that were also police officers working
10 on his behalf.

11 MR. MYERS: Working on his behalf as police officers?

12 MR. ORTIZ: [Unintelligible] Your Honor.

13 THE COURT: Overruled.

14 OFFICER CERVANTES: As a weapons distributor.

15 MR. MYERS: Can you describe what information was in
16 this debrief?

17 OFFICER CERVANTES: No.

18 MR. MYERS: You hadn't seen the debrief yet?

19 OFFICER CERVANTES: I have not.

20 MR. MYERS: Did you find out there was a border
21 crossing for August 21, 2023, for Mr. Hernandez?

22 OFFICER CERVANTES: There was a crossing in the
23 afternoon.

24 THE COURT: In the afternoon, excuse me.

25 OFFICER CERVANTES: Yes, sir.

1 MR. MYERS: Was this prior to the deal that the
2 Defendant said was supposed to take place?

3 OFFICER CERVANTES: Correct.

4 MR. MYERS: Did you identify what kind of vehicle
5 Mr. Hernandez was driving?

6 OFFICER CERVANTES: I did.

7 MR. MYERS: What was he driving?

8 OFFICER CERVANTES: A white Ford Bronco.

9 MR. MYERS: Did the undercover agent receive
10 confirmation from Fernanda who was going to pickup the weapons?

11 OFFICER CERVANTES: Yes.

12 MR. MYERS: What information did Fernanda provide?

13 OFFICER CERVANTES: The phone number that we found to
14 be belonging to Mr. Hernandez.

15 MR. MYERS: Did she also say what kind of vehicle he
16 would be driving?

17 OFFICER CERVANTES: I don't know.

18 THE COURT: Did she say there would be multiple
19 vehicles or just Mr. Hernandez?

20 OFFICER CERVANTES: The day of the deal we found out
21 there was multiple vehicles.

22 MR. MYERS: Does Mr. Hernandez go and meet with the
23 undercover agent?

24 OFFICER CERVANTES: He does.

25 MR. MYERS: Where did they meet?

1 OFFICER CERVANTES: At a Circle K off of Dyer Street
2 here in El Paso, Texas.

3 MR. MYERS: Which is in the Western District of Texas?

4 OFFICER CERVANTES: It is.

5 MR. MYERS: At that meeting, who was there?

6 OFFICER CERVANTES: The undercover agent, one other
7 agent, Mr. Hernandez, and shortly after we found Mr. Ramos also
8 present at the location.

9 MR. MYERS: Do Mr. Hernandez and the undercover agent
10 have a conversation?

11 OFFICER CERVANTES: They do.

12 MR. MYERS: Can you describe that conversation for the
13 Court?

14 OFFICER CERVANTES: The conversation was that they
15 acknowledged each other. The undercover agent presented an
16 image of the merchandise, which in this case would be the 20
17 AK-47 rifles and the Barrett caliber rifles. The image
18 consisted of all of them laying on the ground over a tarp.

19 Then, Mr. Hernandez then displayed the bulk cash which was
20 found -- which Mr. Hernandez opened up his center console, and
21 the undercover agent witnessed the bulk cash inside the center
22 console.

23 MR. MYERS: This was the center console for the Bronco
24 he was driving?

25 OFFICER CERVANTES: That is correct.

1 MR. MYERS: When Mr. Hernandez crossed the port of
2 entry into the United States, did he declare \$62,000?

3 OFFICER CERVANTES: He did not.

4 MR. MYERS: Is he required to declare that because it
5 is more than 10,000?

6 OFFICER CERVANTES: That is correct.

7 MR. MYERS: Is the gun exchange going to take place at
8 the Circle K or 7-Eleven?

9 OFFICER CERVANTES: No.

10 MR. MYERS: Is there another area or staged area?

11 OFFICER CERVANTES: Yes, there is.

12 MR. MYERS: What happens after Mr. Hernandez and --
13 was the other person Mr. Ramos?

14 OFFICER CERVANTES: That is correct.

15 MR. MYERS: And the undercover agent had a
16 conversation about the weapons and the money, what happens
17 next?

18 OFFICER CERVANTES: They all agreed to move to a
19 second location, so they each got in their own vehicle as well
20 as the agent getting into his own vehicle. They convoyed or
21 attempt to convoy to the second location. Mr. Hernandez is
22 witnessed following the undercover agent's vehicle.

23 They arrive to the second location, and Mr. Ramos ends up
24 going in another direction. Mr. Hernandez, and the white
25 Bronco, and the undercover agent are seen at the storage

1 facility outside of the gate. They are seen there for several
2 minutes after which time they both enter the storage facility
3 and arrive at a storage unit within the storage facility.

4 MR. MYERS: Is this where the weapons are located?

5 OFFICER CERVANTES: That is correct.

6 MR. MYERS: What happens next?

7 OFFICER CERVANTES: At the storage unit, the
8 undercover agent opens up the storage unit and displays the
9 firearms to Mr. Hernandez. Mr. Hernandez then accepts the
10 firearms in exchange for the \$63,000 he had inside the vehicle.

11 MR. MYERS: Mr. Hernandez takes actual possession of
12 the weapons?

13 OFFICER CERVANTES: That is correct.

14 MR. MYERS: And he gives the money to the undercover
15 agent?

16 OFFICER CERVANTES: That is correct.

17 MR. MYERS: What happens next?

18 OFFICER CERVANTES: Then, ATF agents on the scene
19 arrest Mr. Hernandez.

20 MR. MYERS: At the scene, is Mr. Hernandez -- I guess
21 not at the scene, but eventually Mr. Hernandez is read his
22 Miranda warnings?

23 OFFICER CERVANTES: Yes.

24 MR. MYERS: Does he agree to waive his rights and
25 speak to you without an attorney?

1 OFFICER CERVANTES: Yes.

2 MR. MYERS: He speaks to you personally or you heard
3 this interview?

4 OFFICER CERVANTES: Yes.

5 MR. MYERS: Is this interview recorded?

6 OFFICER CERVANTES: Yes.

7 MR. MYERS: After Mr. Hernandez waives his rights,
8 what does he tell you?

9 OFFICER CERVANTES: He tells myself and Agent Luis
10 [unintelligible] with the ATF and Special Agent Jim
11 [unintelligible] with the FBI that he was tasked by an
12 individual in Mexico with \$63,000 to go to a location in El
13 Paso and use his \$63,000 in exchange for weapons. He was to
14 purchase those weapons with the said currency, and then he was
15 going to deliver those weapons to somebody else, another party,
16 meaning the party of Mr. Ramos and the Ford F-150.

17 The weapons were then going to be exported out of the
18 United States. Mr. Hernandez would then communicate with Mr.
19 Ramos, retrieve the firearms in Mexico, and handoff the
20 firearms to the individual that originally had sent him.

21 MR. MYERS: Let's break this down.

22 These weapons were going to be exported to Mexico?

23 OFFICER CERVANTES: Correct.

24 MR. MYERS: According to Mr. Hernandez, was he going
25 to cross the weapons personally?

1 OFFICER CERVANTES: No.

2 MR. MYERS: Who was going to cross the weapons?

3 OFFICER CERVANTES: Mr. Ramos.

4 MR. MYERS: Once Mr. Ramos crossed the weapons into
5 Mexico, what was Mr. Hernandez going to do?

6 OFFICER CERVANTES: Coordinate with Mr. Ramos and
7 retrieve the firearms directly from Mr. Ramos.

8 MR. MYERS: [unintelligible] retrieve the firearms?

9 OFFICER CERVANTES: Return the -- give the firearms to
10 the individual that originally tasked them to do this deal.

11 MR. MYERS: Did Mr. Hernandez tell you who was the
12 other individual to ultimately give them to?

13 OFFICER CERVANTES: No.

14 MR. MYERS: But this person was in Mexico?

15 OFFICER CERVANTES: Correct.

16 THE COURT: Do you believe this person to be Fernanda
17 or an associate?

18 OFFICER CERVANTES: An associate of Fernanda.

19 MR. MYERS: Mr. Hernandez's phone previously had been
20 in contact with Fernanda's phone number, correct?

21 OFFICER CERVANTES: Yes.

22 MR. MYERS: Do you remember the dates of when he was
23 in contact with Fernanda [unintelligible]?

24 OFFICER CERVANTES: The last date, I believe, was the
25 day prior, August 20, 2023.

1 MR. MYERS: Mr. Ramos [unintelligible] arrested,
2 correct?

3 OFFICER CERVANTES: That is correct.

4 MR. MYERS: Did someone speak to Mr. Ramos?

5 OFFICER CERVANTES: Yes.

6 MR. MYERS: Did another agent also or, I guess,
7 someone with HSI conduct some information about exportation of
8 firearms?

9 OFFICER CERVANTES: Yes.

10 MR. MYERS: This information was contained within the
11 complaint affidavit?

12 OFFICER CERVANTES: Yes.

13 MR. MYERS: Is a license required to export the AK-47s
14 and. 50 caliber weapons?

15 OFFICER CERVANTES: Yes.

16 MR. MYERS: Does Mr. Hernandez or Mr. Ramos have a
17 license to export those weapons?

18 OFFICER CERVANTES: They do not.

19 MR. MYERS: Is it a felony to export those weapons?

20 OFFICER CERVANTES: Yes.

21 MR. MYERS: Also, do these weapons, in your training
22 and experience, do they help further the purposes of a drug
23 trafficking organization?

24 OFFICER CERVANTES: Yes.

25 MR. MYERS: You previously testified Fernanda was --

1 you had brokered a deal or seized some methamphetamine
2 associated with her, correct?

3 OFFICER CERVANTES: Correct.

4 MR. MYERS: How do weapons further drug trafficking
5 organizations?

6 OFFICER CERVANTES: It protects them from rival
7 cartels and also protects them from police presence in Mexico.
8 It protects them from moving their merchandise, which is
9 narcotics in this case, from moving from one state to the
10 other, which is some of them are protected by rival cartels.

11 MR. MYERS: [unintelligible] the use or carrying of
12 these weapons by Fernanda would be a crime in the United
13 States, correct?

14 OFFICER CERVANTES: Yes.

15 MR. MYERS: Even though the weapons would be in
16 Mexico?

17 OFFICER CERVANTES: Yes.

18 MR. MYERS: Your Honor, pass the witness.

19 THE COURT: Mr. Ortiz?

20 MR. ORTIZ: Yes, sir.

21 Good morning, Agent.

22 Is it Agent?

23 OFFICER CERVANTES: No, sir. It is Officer.

24 MR. ORTIZ: Officer Cervantes, I am Ruben Ortiz.

25 I will just ask a few questions, okay, sir?

1 OFFICER CERVANTES: Okay.

2 MR. ORTIZ: You talked about Fernanda.

3 You don't know if it was actually Fernanda who was making
4 the phone calls, right?

5 OFFICER CERVANTES: I don't know.

6 MR. ORTIZ: It is someone you believed to be someone
7 with the name of Fernanda, correct?

8 OFFICER CERVANTES: We believe -- I haven't seen her
9 in person so I don't know.

10 MR. ORTIZ: It is just speculation who Fernanda is or
11 if this is the same Fernanda you are talking about
12 [unintelligible] the drug transaction that took place, correct?

13 OFFICER CERVANTES: I believe the undercover agent had
14 conversations with her.

15 MR. ORTIZ: Do you believe or do you know?

16 OFFICER CERVANTES: That's based on the undercover
17 agent's reports.

18 MR. ORTIZ: You said you believed?

19 OFFICER CERVANTES: I'm not quite clear. I don't
20 quite understand the question.

21 MR. ORTIZ: Let's backup.

22 You keep talking about Fernanda as if you know that she was
23 involved in the drug trafficking seizure previously, correct?

24 OFFICER CERVANTES: [Unintelligible].

25 MR. ORTIZ: How do you know this is the same Fernanda

1 that is involved in that?

2 OFFICER CERVANTES: Because we had prior conversations
3 with her, and she identified herself as Fernanda. At her
4 request, and she asked to speak to somebody to engage in what
5 -- seek somebody to engage in [unintelligible]. We then
6 transferred that phone number to the undercover agent, and that
7 undercover agent then conversed with her.

8 MR. ORTIZ: It was a female -- you know it is a
9 female?

10 OFFICER CERVANTES: Yes.

11 MR. ORTIZ: How do you know that?

12 OFFICER CERVANTES: Because I heard the voice.

13 MR. ORTIZ: It was a voice of someone you believed to
14 be a female, correct?

15 OFFICER CERVANTES: Yes.

16 MR. ORTIZ: A voice of somebody claiming to be a
17 person named Fernanda?

18 OFFICER CERVANTES: Correct.

19 MR. ORTIZ: Fernanda is a pretty common name, right?

20 OFFICER CERVANTES: She asked to be called Fernanda.
21 I'm not sure what the question is.

22 MR. ORTIZ: I think you do.

23 Fernanda is a common name, yes?

24 OFFICER CERVANTES: Yes, sorry.

25 MR. ORTIZ: [Unintelligible] somebody you say named

1 Fernanda talking to the undercover?

2 OFFICER CERVANTES: Sure.

3 MR. ORTIZ: Who initiated the contact with Fernanda or
4 someone purporting to be Fernanda?

5 OFFICER CERVANTES: She did.

6 MR. ORTIZ: She called out to the undercover agent?

7 OFFICER CERVANTES: Yes.

8 MR. ORTIZ: Or was the undercover agent contacted a
9 person they think is named Fernanda?

10 OFFICER CERVANTES: Can you explain -- repeat the
11 question one more time.

12 MR. ORTIZ: Do you know who contacted who first?

13 OFFICER CERVANTES: I don't know. I don't recall.

14 MR. ORTIZ: You don't know the answer to that?

15 OFFICER CERVANTES: I don't know at this time.

16 MR. ORTIZ: All you know is that this undercover agent
17 either contacted Fernanda or Fernanda contacted the undercover
18 agent regarding some weapons, correct?

19 OFFICER CERVANTES: Correct.

20 MR. ORTIZ: They were discussing, I guess, purchasing
21 these weapons?

22 OFFICER CERVANTES: Correct.

23 MR. ORTIZ: My client's name was never used in the
24 conversations, correct?

25 OFFICER CERVANTES: Correct.

1 MR. ORTIZ: Earlier, you talked about tracing, right?

2 OFFICER CERVANTES: Correct.

3 MR. ORTIZ: What you do with pin track tracing.

4 How many calls between my client, I guess, and this person
5 purporting to be Fernanda had taken place?

6 OFFICER CERVANTES: I don't know.

7 MR. ORTIZ: You also talked about a debrief.
8 What was the debrief about?

9 OFFICER CERVANTES: Back in 2012, there was a debrief
10 conducted by at least the ATF agents here in El Paso where Mr.
11 Hernandez was mentioned.

12 MR. ORTIZ: Somebody said something about somebody
13 else basically in that debrief?

14 OFFICER CERVANTES: And that somebody else meaning Mr.
15 Hernandez, correct.

16 MR. ORTIZ: People lie, right?

17 OFFICER CERVANTES: I don't know who the person was so
18 I'm not sure.

19 MR. ORTIZ: I mean, just because somebody says, hey,
20 this is what happened, that doesn't mean that's what happened,
21 right?

22 OFFICER CERVANTES: I don't know how to answer that
23 question.

24 MR. ORTIZ: You don't know the credibility of any --

25 OFFICER CERVANTES: At this time, no.

1 MR. ORTIZ: What you testified about?

2 OFFICER CERVANTES: Yes.

3 MR. ORTIZ: It is credible, right?

4 OFFICER CERVANTES: Sure.

5 MR. ORTIZ: You would agree with me you don't know

6 anything about the circumstances of how credible or not

7 credible that information you obtained is, correct?

8 OFFICER CERVANTES: Correct.

9 MR. ORTIZ: You also talked about my client -- who

10 called my client? Did the agent call my client or did my

11 client call this agent, the undercover?

12 OFFICER CERVANTES: Your client, Mr. Hernandez?

13 MR. ORTIZ: Yes.

14 OFFICER CERVANTES: They called one another to -- they

15 called one another.

16 MR. ORTIZ: Who called who first?

17 OFFICER CERVANTES: I don't know.

18 MR. ORTIZ: You don't know that?

19 OFFICER CERVANTES: No.

20 MR. ORTIZ: They talked to each other, and you don't

21 know what they talked about?

22 OFFICER CERVANTES: No.

23 MR. ORTIZ: My client ends up -- I guess there was two

24 meeting places, correct?

25 OFFICER CERVANTES: That is correct.

1 MR. ORTIZ: The first meeting place was where?

2 OFFICER CERVANTES: Circle K gas station.

3 MR. ORTIZ: At the Circle K gas station, you said that
4 supposedly my client showed, opened up the center console, and
5 showed some money?

6 OFFICER CERVANTES: That is correct.

7 MR. ORTIZ: You don't know where he [unintelligible]
8 that money, correct?

9 OFFICER CERVANTES: Where he received the money, no.

10 MR. ORTIZ: You were asked earlier about declaring
11 money.

12 You remember that?

13 OFFICER CERVANTES: Mr. Hernandez stated he brought
14 the money from Mexico.

15 MR. ORTIZ: He told that to who?

16 OFFICER CERVANTES: Myself, Special Agent Luis Rubio,
17 and Special Agent Jim Davis.

18 MR. ORTIZ: It is recorded, yes?

19 OFFICER CERVANTES: Yes, sir.

20 MR. ORTIZ: At that place, Circle K, did anybody have
21 the weapons there?

22 OFFICER CERVANTES: There was a weapon there, yes.

23 MR. ORTIZ: These weapons, who did they belong to?

24 OFFICER CERVANTES: They belonged to the ATF.

25 MR. ORTIZ: They are ATF weapons?

1 OFFICER CERVANTES: Yes.

2 MR. ORTIZ: [Unintelligible] anywhere, right?

3 OFFICER CERVANTES: No.

4 MR. ORTIZ: [Unintelligible] right?

5 OFFICER CERVANTES: No.

6 MR. ORTIZ: Are they operative, the weapons?

7 OFFICER CERVANTES: Absolutely.

8 MR. ORTIZ: You all are dealing with operative
9 weapons?

10 OFFICER CERVANTES: We are.

11 MR. ORTIZ: Did you go through the storage unit?

12 OFFICER CERVANTES: That is correct.

13 MR. ORTIZ: Did any of the agents use their firearms,
14 do you know?

15 OFFICER CERVANTES: I don't know.

16 MR. ORTIZ: You didn't ask about that?

17 OFFICER CERVANTES: Did they use their firearms?

18 There was a flash bang that was initiated during the exchange
19 of the weapons.

20 MR. ORTIZ: What is that?

21 OFFICER CERVANTES: Flash bang?

22 MR. ORTIZ: Uh-huh.

23 OFFICER CERVANTES: I don't know if I can answer that
24 question.

25 MR. ORTIZ: Somebody fired a weapon?

1 OFFICER CERVANTES: It was -- from what I was told, it
2 was a less lethal round that struck Mr. Hernandez during the
3 exchange.

4 MR. ORTIZ: A what?

5 OFFICER CERVANTES: I'm not sure. I don't know.

6 MR. ORTIZ: I think the information I read was that my
7 client was compliant, and he talked to you guys, and he didn't
8 run and any of that, right?

9 OFFICER CERVANTES: Correct.

10 MR. ORTIZ: He was not aggressive towards anybody?

11 OFFICER CERVANTES: Correct.

12 MR. ORTIZ: Do you know who the agent was that fired
13 this weapon at him?

14 OFFICER CERVANTES: I don't know.

15 MR. ORTIZ: How many agents were there?

16 OFFICER CERVANTES: I don't know.

17 MR. ORTIZ: Officers or law enforcement people?

18 OFFICER CERVANTES: I don't know.

19 MR. ORTIZ: You don't know any of that?

20 OFFICER CERVANTES: No, sir. I was outside.

21 MR. ORTIZ: When an agent or government law
22 enforcement officer fires a weapon, isn't there some
23 investigation that takes place with that?

24 OFFICER CERVANTES: I'm not sure.

25 MR. ORTIZ: Internal investigations?

1 OFFICER CERVANTES: I'm not sure about that.

2 MR. ORTIZ: You have been in the FBI how long, the
3 task force?

4 OFFICER CERVANTES: Approximately four years.

5 MR. ORTIZ: You have been a United States Customs
6 agent for how long?

7 OFFICER CERVANTES: Almost 20 years.

8 MR. ORTIZ: You don't know anything about those?

9 OFFICER CERVANTES: Yes.

10 MR. ORTIZ: Rules?

11 OFFICER CERVANTES: Yes.

12 MR. ORTIZ: What are these rules?

13 OFFICER CERVANTES: Those rules are if there is a less
14 lethal round fired and it was reported to be a dud. I'm not
15 sure what reporting was done within the ATF. As far as I am
16 concerned, I don't know.

17 MR. ORTIZ: [Unintelligible] round that was used,
18 right?

19 OFFICER CERVANTES: My understanding is it was a less
20 lethal round.

21 MR. ORTIZ: What is a less lethal round?

22 OFFICER CERVANTES: A round that is classified as a
23 round that is not going to cause grave bodily danger or death.

24 MR. ORTIZ: I'm trying to see, it is not a regular --

25 OFFICER CERVANTES: Maybe a projectile of some sort

1 that is not penetrable by the skin maybe. I'm not sure.

2 MR. ORTIZ: You don't know?

3 OFFICER CERVANTES: No.

4 MR. ORTIZ: You don't know if it was less than lethal
5 or an actual bullet?

6 OFFICER CERVANTES: From what I understand, a
7 non-lethal round.

8 MR. ORTIZ: You don't know?

9 OFFICER CERVANTES: I wasn't there.

10 MR. ORTIZ: You testified about [unintelligible]
11 right?

12 OFFICER CERVANTES: Yes.

13 MR. ORTIZ: As if you were there?

14 OFFICER CERVANTES: Yes, sir.

15 MR. ORTIZ: You are testifying about what everybody is
16 saying, right?

17 OFFICER CERVANTES: Yes, sir.

18 MR. ORTIZ: Pass the witness, Your Honor.

19 THE COURT: Thank you.

20 Anything else?

21 MR. MYERS: Nothing for this witness, Your Honor.

22 THE COURT: Anything beyond the witness?

23 MR. MYERS: Yes, Your Honor [unintelligible].

24 THE COURT: Okay, thank you.

25 MR. MYERS: The Government calls Lori Cepeda to the

1 stand, Your Honor.

2 THE COURT: With some new information?

3 MR. MYERS: Yes, Your Honor.

4 THE COURT: All right.

5 Do you swear to tell the truth, the whole truth, and
6 nothing but the truth, so help you God?

7 AGENT CEPEDA: I do.

8 THE COURT: Thank you.

9 MR. MYERS: Good morning, Agent.

10 AGENT CEPEDA: Good morning.

11 MR. MYERS: Would you please state your name for the
12 record.

13 AGENT CEPEDA: Lori Cepeda.

14 MR. MYERS: Common spelling?

15 AGENT CEPEDA: Yes, sir.

16 MR. MYERS: Where do you work?

17 AGENT CEPEDA: Special agent with the Bureau of
18 Alcohol, Tobacco, Firearms and Explosives.

19 MR. MYERS: August 21, 2023, were you involved in an
20 investigation of the United States of America versus Mr. Ramos
21 and Mr. Hernandez?

22 AGENT CEPEDA: Yes, sir.

23 MR. MYERS: As part of your duties, were you there and
24 made aware of the interviews with agents and Mr. Ramos?

25 AGENT CEPEDA: Yes.

1 MR. MYERS: Were you there or just reviewed the
2 report?

3 AGENT CEPEDA: I just reviewed the recording.

4 MR. MYERS: The recording?

5 AGENT CEPEDA: Yes, sir.

6 MR. MYERS: Who was the [unintelligible] Mr. Ramos?

7 AGENT CEPEDA: Special agents with ATF, Special Agent
8 Zyus [sic] and Special Agent Montes.

9 MR. MYERS: After Mr. Ramos is apprehended, is he read
10 his Miranda warnings?

11 AGENT CEPEDA: Yes, sir.

12 MR. MYERS: Does he waive the rights and agree to
13 speak with you?

14 AGENT CEPEDA: Yes, sir.

15 MR. MYERS: What does Mr. Ramos tell you?

16 AGENT CEPEDA: Mr. Ramos tells us he was ordered by
17 his brother to come to the United States, to obtain these
18 firearms and then to subsequently cross them to Mexico for his
19 brother.

20 MR. MYERS: Does Mr. Ramos know anything about
21 Mr. Hernandez?

22 AGENT CEPEDA: No, sir.

23 MR. MYERS: He is there working with Mr. Hernandez?

24 AGENT CEPEDA: Yes, sir.

25 MR. MYERS: Do you understand or do you have an idea

1 of the connection between Mr. Ramos and his brother and Mr.
2 Hernandez?

3 AGENT CEPEDA: To my understanding, Mr. Ramos' brother
4 is also a police officer with Mr. Hernandez.

5 MR. MYERS: As previously you heard the testimony, Mr.
6 Hernandez is a retired police officer in Juarez?

7 AGENT CEPEDA: Yes, sir.

8 MR. MYERS: Your Honor, pass the witness.

9 MR. ORTIZ: I have no questions, Judge.

10 THE COURT: Thank you.

11 MR. MYERS: The Government would proffer what was in
12 the Pretrial Services report.

13 THE COURT: Sure, I will take that.

14 Any clarifications or objections to the report?

15 MR. ORTIZ: What report are we discussing?

16 THE COURT: The Pretrial Services.

17 MR. ORTIZ: Just a couple. My client is actually
18 getting divorced. He is not divorced, Your Honor.

19 As far as the address where he could live, there is a
20 couple of places where he could reside. One of them is the
21 address for his friend. It is actually 9415 Lindsey Street or
22 he can also reside with his father, who resides in New Mexico,
23 Your Honor, Artesia, New Mexico.

24 Other than that, Your Honor, I don't believe there are any
25 other corrections.

1 THE COURT: Any evidence?

2 MR. ORTIZ: Judge, should I proffer?

3 THE COURT: Yes, sir.

4 MR. ORTIZ: Should I --

5 THE COURT: Yes, please. Come up to the podium.

6 MR. ORTIZ: Judge, my client is 51 years old, and he
7 is a resident alien, Your Honor. He is a high school graduate
8 and attended the university in College Administration and a
9 college degree in Administration in Juarez in Mexico.

10 There is also some other information he actually studied
11 law in Mexico while he was a police officer, and he did
12 practice law over there, civil litigation. He pretty much last
13 litigated in 2015. Since he retired, he has taken a case here
14 and there. He did represent police officers.

15 He retired, Your Honor, as a municipal police officer, and
16 I think he was there 18 years. He currently holds a
17 [unintelligible] as indicated in the Pretrial Services report,
18 Judge.

19 I don't believe my client to be a flight risk. He is a
20 resident alien and is able to be here in the United States
21 legally. He could be able to live at the two locations, one
22 with his friend I mentioned, and the other place he could
23 reside is with his father who is in Artesia, New Mexico, Judge.

24 We would definitely -- my client would welcome the
25 opportunity to have a bond, Your Honor, in this case.

1 Thank you.

2 THE COURT: Mr. Myers?

3 MR. MYERS: Your Honor [unintelligible] the elements
4 of the crime have been met, and there should be a finding by
5 the Court.

6 Second; as this crime deals with firearms and drug
7 trafficking organizations, and Mr. Hernandez is working with
8 others to acquire those firearms, I think he is a risk to not
9 only this community but the community in New Mexico as well.

10 The information in the Pretrial Services report is largely
11 unverified. He is a risk of flight and should be detained.

12 THE COURT: Is this your case?

13 MR. MYERS: This is my case, Your Honor.

14 THE COURT: You seem intense today.

15 MR. MYERS: I do.

16 THE COURT: You seem you're in an appellate mode if I
17 rule against you.

18 MR. MYERS: Yes, Your Honor.

19 THE COURT: I am going to detain the Defendant and
20 grant the Government's motion. I'll outline the reasons in my
21 order.

22 I will advise you, Mr. Hernandez, that my decision is not
23 necessarily the final one. If you want to, you can appeal to a
24 district court judge. Even if I set bond, it would not go
25 anywhere because Mr. Myers was going to appeal my decision.

1 You are going to end up in the district court no matter what
2 would have happened today.

3 Anything else for the Government?

4 MR. MYERS: No, Your Honor.

5 THE COURT: The standard Brady reminder.

6 Anything else, Mr. Ortiz?

7 MR. ORTIZ: Nothing further, Your Honor.

8 THE COURT: We'll be in recess. Thank you.

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CERTIFICATION

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter. I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

Date: September 18, 2024

/s/ Walter A. Chiriboga, Jr.

Walter A. Chiriboga, Jr.